

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LEO L. DURAN,

Plaintiff,

v.

No. 09-cv-0758 MCA/SMV

**CURRY CNTY. ADULT DET. CTR.,
et al.,**

Defendants.

ORDER DIRECTING CLERK TO MAIL CERTAIN DOCUMENTS

THIS MATTER is before the Court on the Court's Order to Show Cause [Doc. 177] and Plaintiff's Response [Doc. 184] thereto. The Court previously found that Defendant Tamara Curtis has never been served, despite prior orders allowing Plaintiff to submit a correct address for Defendant Curtis and attempts by the US Marshals to serve Defendant Curtis at the addresses that Plaintiff supplied. *See* Order to Show Cause [Doc. 177] at 1–3. The Court ordered Plaintiff to show cause why his claims against Defendant Curtis should not be dismissed for failure to serve her under Fed. R. Civ. P. 4(m). *Id.* at 5. Plaintiff subsequently offered two new addresses, previously undisclosed, where he believes Defendant Tamara Curtis may be residing. Response [Doc. 184] at 1–2.

Because Plaintiff is proceeding *in forma pauperis*, it is the Court's responsibility to issue and serve all process. *See* 28 U.S.C. § 1915(d). The Court will therefore order that notice and waiver of service forms, as well as a copy of the operative complaint [Docs. 145 and 169], be mailed to Defendant Curtis at those two addresses. However, if the Court is unable to serve her at one of these addresses, the Court will dismiss Plaintiff's claims against her without prejudice.

See Caldwell v. Martin, Nos. 95-6101, 95-6381, 1996 WL 731253 at *1-2 (10th Cir. Dec. 20, 1996) (unpublished) (affirming dismissal of defendants who had not been served because plaintiff failed to provide current addresses for them and where United States Marshals twice attempted to serve them and where discovery had been granted to assist Plaintiff in discovering the addresses).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Court's Order to Show Cause [Doc. 177] is **QUASHED**;

IT IS FURTHER ORDERED that the Clerk of the Court shall mail notice and waiver of service forms, along with copies of [Docs. 145 and 169], to Defendant Tamara Curtis at the following addresses:

13026 Llano Drive W.
Litchfield Park, Arizona 85340

and

115 Creek Drive
Crestview, Florida 32536.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge